



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

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April 27, 1993

Mr. Cecil Garland  
River Commissioner  
Callao, UT

RE: Rights to divert from Granite Creek

Dear Mr. Garland:

At our two past distribution meetings, an unresolved point of contention has been how much water is to be allowed to be diverted by Red Cedar Corporation before George Douglas is entitled to divert water from Granite Creek and when should the count of the diversions begin. To address these issues, first, we have examined the Judgement on Stipulation signed by Judge Ray M. Harding. The questions are not definitively answered therein. It is unclear as to whether the limit of the Red Cedar right is 2182 acre-feet total for all uses or if the 2182 AF is to be used for irrigation and then other uses are in addition to this quantity. The 2182 acre-feet amount is in the section which is intended to identify irrigation season rights. No specific quantity of water to be diverted is listed for the November 1 to March 31 period.

We also examined the certificates which were issued for Red Cedar's predecessor on 18-32 and 18-33. The limiting language of those certificates is that the holder is entitled to "use not to exceed three acre-feet of water per acre of land irrigated per annum from all rights combined." Hence, the combined diversions from Red Cedar Creek and Granite Creek are to total 3 AF/acre under these two rights. Other language in the Granite Creek certificate states, "As much of said water as is necessary is used throughout the entire year for incidental domestic purposes at ranch houses located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 34, T12S, R17W, SLB&M. and for the watering of stock ...." So the certificate is confusing as to whether an absolute limitation for all uses of 2182 AF was imposed or if the limitation applies only to irrigation. Clearly, irrigation diversions would occur only during the growing season and domestic and stockwatering diversions would be necessary year round.

The practices of the Division have changed very little since the issuance of these certificates in 1940. Our decision on this matter and instructions which we are giving to you as commissioner are made using present practices to clarify the certificates.

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The quantity of water to which Red Cedar Corporation is to entitled to is:

1) **2182.80 acre-feet for irrigation.** The limiting language only applies to the irrigation. Typically, such language is intended to discourage waste and afford as many irrigators as possible the opportunity to divert water. Therefore, from April 1 to October 31 of each year Red Cedar Corp. can divert  $(3 \text{ acre-feet/acre}) \times (727.6 \text{ acres}) = 2182.80 \text{ acre-feet}$  of water for irrigation. This may be any combination of Red Cedar Creek and Granite Creek diversions so each will need to be metered and monitored. The stipulation states that Red Cedar is to be used as much as possible to allow Douglas the use of Granite Creek. Also, the stipulation states that neither party is to divert irrigation water out of priority. I might add that the water may be diverted by a junior appropriator with the prior consent of the party entitled to its use at that time.

2) **186 acre-feet diverted from Red Cedar Creek for storage in the pond.** Storage is to occur from October 1 to June 30. No diversions from Granite Creek are mentioned in the certificates for storage but Granite Creek waters certainly can be commingled with Red Cedar in the regulating pond for irrigation use.

3) **85.35 acre-feet for domestic and stockwatering uses.** Domestic and stockwatering uses were not quantified in the certificates but were listed as being able to divert up to 18 cfs from Granite Creek. The certificate for Red Cedar Creek does not list any domestic or stockwatering uses so those waters should be diverted from Granite Creek. Those uses do not require such a large quantity of water delivered continuously and therefore we will quantify them at  $(3000 \text{ cattle})(0.028 \text{ acre-feet/cow-year}) + (3 \text{ families})(0.45 \text{ acre-feet/family-year}) = 85.35 \text{ acre feet}$  for these uses.

Using the above values, the maximum amount which could be diverted from Granite Creek, if no diversions are made from Red Cedar Creek, in a year under 18-32 and 18-33 is  $2182.80 + 85.35 = 2268.15 \text{ acre-feet}$ . The maximum total diversion which is to be made under these rights from Red Cedar Creek and Granite Creek combined is  $2268.15 + 186 = 2454.15 \text{ acre-feet per year}$ . Diversions from Red Cedar Creek are to be deducted from the combined total.

According to the stipulation, George Douglass is entitled to the next 469.22 acre-feet from Granite Creek. After this allotment is filled, Red Cedar has rights to the water again although I tend to doubt that sufficient water will be available to fill both the Red Cedar and Douglass primary rights.

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This may or may not resolve the "how much is it" issue, but it is the best decision which can be made by the Division.

The next issue to address is to make a determination as to when the count starts. Again, there is no guidance provided in the stipulation nor the certificates on this matter. A standard practice is to use a calendar year for such matters.

The total diversions for each water right holder are to be zeroed at the end of each year and their respective diversions totaled beginning anew each January 1. Water which is being taken by either party should be identified by right and deducted from the quantity which that party is entitled to.

As you have no doubt noted, it behooves Red Cedar to be careful with the amounts of water which are diverted each year to ensure that they have sufficient water to meet their needs. I am assuming that you have a copy of the stipulation which contains a priority schedule of the rights on Red Cedar and Granite Creeks. You should deliver the rights in accordance with that priority schedule with the clarifications provided in this directive. This correspondence only deals with Red Cedar's rights under 18-32 and 18-33 and Douglass's right under 18-432. If water is available for other rights or the BLM requests water for their right, then we will have to address those issues.

If you have questions or need specific assistance please feel free to call me at 538-7397.

Sincerely,

A handwritten signature in cursive script that reads "John R. Mann".

John R. Mann, P.E.  
Weber Regional Engineer

cc: Red Cedar Corporation  
c/o Glen Allred

George Douglass